

Bostrom Seating Company, Inc. and United Steelworkers of America, AFL-CIO, CLC. Case 10-CA-24443

January 31, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
CRACRAFT AND RAUDABAUGH

On September 6, 1990, Administrative Law Judge J. Pargen Robertson issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,¹ and conclusions,² and to adopt the recommended Order as modified.³

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Bostrom Seating Company, Inc., Piedmont, Alabama, its officers, agents, succes-

sors, and assigns, shall take the action set forth in the Order as modified below.

1. Substitute the following for paragraph 1(a).

“(a) Suspending, discharging, and refusing to reinstate employees because of their union or other protected concerted activities.”

2. Substitute the following for paragraph 2(b).

“(b) Remove from its files any reference to the suspension and termination of Curvin and notify him in writing that this has been done and that evidence of his unlawful suspension or termination will not be used against him in any way.”

3. Substitute the attached notice for that of the administrative law judge.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize

To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT suspend or discharge our employees because of their activities on behalf of United Steelworkers of America, AFL-CIO, CLC, or any other labor organization.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of rights guaranteed them by Section 7 of the Act.

WE WILL offer immediate and full reinstatement to Raymond Curvin to the position he formerly held or, if that position no longer exists, to a substantially equivalent position without prejudice to his seniority or other rights and privileges.

WE WILL make Raymond Curvin whole for all losses of earnings he may have suffered by reason of our discrimination against him.

WE WILL expunge from our records any reference to our suspension and discharge of Raymond Curvin and notify him in writing of our action in that regard.

BOSTROM SEATING COMPANY, INC.

¹ The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enf'd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

² We agree with the judge that the reason articulated by the Respondent for disciplining employee Raymond Curvin—that he violated its drug and alcohol policy by having beer in his truck—was pretextual and that Curvin was suspended and discharged because of his union activities in violation of Sec. 8(a)(3) and (1). In this regard, in affirming the judge's findings that Curvin (an avowed union adherent) and West (whose union sympathies were not known to the Respondent) were treated differently for essentially the same infraction of its drug and alcohol policy, and that such disparate treatment was discriminatorily motivated, we rely on evidence that in both instances, the beer was “found” in accessible, unsecured areas of their vehicles, and that neither was believed to have been drinking. Further, we find it significant, as the judge stated, that in the incident involving Curvin, the beer was under the seat and not in plain view, the employees who might have seen it when Curvin parked his truck that morning were working at the time Harris purportedly received the anonymous telephone tip, and that Harris agreed with Curvin that the alleged phone call was “suspicious.” Thus, as the judge found, there was no more reason to believe West was set up (as the Respondent suggests), than to believe that Curvin was. In addition, we note that in the Curvin incident, General Manager Hardie Harris initially attempted to confiscate the beer, whereas in the West incident Harris not only returned the beer to the bed of West's truck and himself hid it by covering it with trash that was in the truck, but did so despite a purported belief that the beer did not belong to West. We conform par. 2 of the judge's Conclusions of Law to his violation findings by inserting “suspension” between “by” and “discharging” and by substituting “Section 8(a)(3) and (1)” for “section 8(a)(1).”

³ The Respondent does not base its exception on the fact that the complaint alleged only the discharge, and not the suspension, as violative of the Act. In any event, the record indicates that all parties treated the suspension as part of the discharge allegation. Therefore, we should modify the recommended Order to include reference to the suspension and conform the notice to employees accordingly.

Keith Jewell, Esq., for the General Counsel.
Douglas R. Sullenberger, Esq. and *Andrea Lure, Esq.*, of Atlanta, Georgia, for the Respondent.

DECISION

STATEMENT OF THE CASE

J. PARGEN ROBERTSON, Administrative Law Judge. This case was heard in Piedmont, Alabama, on March 21, 1990. The charge was filed on October 26 and amended on December 1, 1989. The complaint, which alleges that Respondent engaged in conduct violative of Section 8(a)(1) and (3) of the National Labor Relations Act (the Act), issued on December 7, 1989.

Respondent admitted that it is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act; that it is engaged in the manufacture of truck seats at its place of business in Piedmont, Alabama; and that, during the past calendar year, a representative period, it sold and shipped from its Piedmont facility finished products valued in excess of \$50,000 directly to customers located outside the State of Alabama.

At the hearing the parties stipulated that United Steelworkers of America, AFL-CIO, CLC (the Union) is a labor organization within the meaning of Section 2(5) of the Act.

I make the following findings on the basis of the entire record, my observation of the demeanor of witnesses, and after consideration of briefs filed by Respondent and the General Counsel.

Raymond Curvin: The complaint alleges that Respondent engaged in conduct violative of Section 8(a)(1) and (3) regarding Raymond Curvin. Raymond Curvin was employed by Respondent as a machine press operator from April 21, 1975, to September 12, 1989.

January 1988: Curvin testified that he first became active on behalf of the Union around January 1988. Curvin attended several union meetings.

Respondent's president gave an antiunion address to the employees a few weeks after Curvin first started attending union meetings. Superintendent Jim Vance asked Curvin what he thought about that address.

I told him I just listened.

Jim Vance asked me if—he asked me where I lived, and I told him. And he asked me how long I'd been employed at Bostrom, and I told him a long time.

And then he asked me if I could go to work in Piedmont anywhere else for the kind of money I was making at Bostrom. And I told him I didn't know.

He said, "Well, it's something to think about."

August 1988: In August 1988, Curvin contacted Union Representative Clarence Brown. Curvin testified that he started talking with employees, distributing union literature outside the plant at the gate, and wearing union shirts and buttons.

February 1989: About a month before an election was held on March 22, 1989, Curvin was called to the office of General Manager Hardie Harris:

Hardie told me—I was called to Hardie's office and he told me that I couldn't harass people on the job.

I told Hardie that all I'd done was ask a man for his telephone number. And he said he didn't care what the conversation was or what I was talking to him about, but that I couldn't harass people on the job. They wouldn't tolerate that.

And I agreed with Mr. Harris. I said, "I don't feel like people should be harassed either, but I wasn't harassing him. I just asked for a telephone number."

Curvin testified that before being called into Harris' office he had talked to an employee about calling that employee at home to talk to him about the Union. On one occasion around February 1989, General Manager Harris came to Curvin with a copy of a union handbill that Curvin had been distributing at the gate, and waved the handbill in Curvin's face, saying that the handbill contained a bunch of lies or things that were not true.

Also in February 1989, some windows were shot out in Respondent's breakroom. General Manager Harris called a meeting of employees regarding that incident and told the employees that nothing like that had ever happened before the start of the union campaign. Curvin spoke up saying

... it wasn't fair to blame us for the windows being shot out when nobody knew who done it.

...

Q. After you made the statement, did [Harris] respond?

A. He come walking right towards me while I was sitting down and stood over me. And then Mr. Harris looked at me and said, "I bet you know more about this than you're letting on."

And at that time I stood up 'cause I didn't want to be talked down to like that in front of everybody.

...

Well, when I said something, other people started saying something, and Hardie put a halt to it. He said, "Look, this is my meeting and I'm talking. If you've got questions or comments, you come in my office."

And at that time somebody stood up and said, "What time is it? And just a chorus of people said, "It's union time." And Hardie closed the meeting and left.

Around the time the windows were shot out of the breakroom, Curvin was called into Harris' office and told by Harris, that,

... he could slap me with a slander suit.

I wanted to know why, and he said because he had witnesses that said that I said that the company was the one that done it.

...

... the floor a day or two after the initial visit to Hardie's office.

Hardie came out to the floor and the issue was brought up again. I told Mr. Harris that if he wanted to go after me with a slander suit, to go right ahead.

And he said something to the effect that if I didn't quit running my mouth, "Big boy, we'll do just that."

March 1989: About a week before the election, Curvin was wearing a sweatshirt with a "big United Steelworkers emblem on the front and one on the back, and it said 'Just Say Yes' on the back," and Respondent's president Brad Herring and General Manager Harris, walked up to Curvin,

Mr. Herring asked me how I was doing, . . . he said, "By the way—he looked at my shirt and took his finger and punched the emblem on my shirt and said, "Those people right there can't help you."

And he said, "If you don't believe it, ask the people in Milwaukee. They're not there anymore."

On cross-examination Curvin testified that the reference to people in Milwaukee dealt with people in another Bostrom organization, Cudahay in Milwaukee, that had closed down.

Curvin testified that he was wearing another union shirt about 2 days before the election when Harris came to him,

He told me that we were going to lose the election. And I said, "No, we're going to win."

And he said, "No, you're gonna lose. I guarantee you you're gonna lose. And what you're gonna do with those shirts, I don't know. They're not gonna be any use to you anymore."

And then he made the statement that after the election he was gonna make a point to come and see me.

Curvin served as a union observer during the March 22, 1989 election. On the next working day after the election Curvin went to General Manager Harris' office,

Well, I went in and knocked on the door, and he said come in. I said, "Hardie, this is over with. I've got to go to work."

And he said, "I do, too."

And I stuck out my hand to shake his hand and he just looked at me and said, "I can't shake your hand; there's no friendship between me and you. You told too many lies about me."

And then I just said, "Okay," and walked out.

September 1989: Curvin was suspended from work on Monday, September 11, 1989. On the Friday before, there was an employee meeting at which the employees were given new handbooks. General Manager Harris told the employees to each tear out a receipt from the back of their respective book and sign and date that receipt. Curvin asked if he could take his handbook home, read it more thoroughly and get back to them. Harris responded, "if you don't sign it, I consider you insubordinate."

General Manager Hardie Harris testified that the handbook that went into effect on September 8, 1989, contained a new drug and alcohol provision. Harris testified:

It basically prohibits the possession of alcohol or drugs within the person or on the property of Bostrom Seating. It gives us the right to do testing in the event of reasonable suspicion of possession of such drugs or alcohol.

According to Harris, when he addressed the employees on September 8, he, among other things, went over the new al-

cohol and drug provisions in the handbook. Those provisions read (in relevant part):

DRUG AND ALCOHOL POLICY

We will not tolerate alcohol abuse or the use of other intoxicants or mind-altering substances, including illegal drugs. Our employees may be required to submit to drug screens, blood alcohol test, breathalyzer test or other medical examination under the following circumstances: (a) on a periodic or random basis; (b) when an employee is suspected of working or reporting to work with intoxicants or mind-altering substances in his or her system; or (c) when an employee suffers an on-the-job injury or is involved in an accident involving Company equipment or vehicles. If a test confirms the presence of other intoxicants or mind-altering substances in the body, the employee is subject to immediate termination. Refusal of an employee to undergo any of these examinations may result in termination.

Employees are prohibited from unauthorized possession, use, sale or purchase of any alcoholic beverages or other mind-altering substances on Company property or in Company vehicles. Off-premises use, possession or alcoholic abuse may also be grounds for disciplinary action, as such conduct may reflect unfavorably on the reputation of the Company.

Employees may be asked to allow inspection of their vehicles, lockers, desks, cabinets, offices, or other personal belongings while on Company property. Should an employee be unavailable or refuse access to a locker, desk, cabinet, or office, the Company reserves the right to remove the lock. An employee's refusal to submit immediately to an inspection of his or her person or property will be considered an act of insubordination and will subject the employee to termination.

On September 11, while Curvin was at work, he was summoned to Harris' office where he was told by Harris,

I've got a report, Ray, that you've got alcoholic beverages in your truck."

After Curvin denied that he had alcoholic beverages, Harris asked to search Curvin's truck. Curvin agreed and told Harris that the truck was unlocked. Harris, Wanda Dobbs, Cheryl Ward, and Curvin went to the truck where beer was found. Curvin testified there were three empty cans and three full cans of beer. Curvin noticed that the beer was wet like it was cold. Curvin told Harris that the beer was not his and that he did not drink beer. Curvin testified:

Q. Did you have any response to his statement that you were suspended?

A. Yeah. I told him I had 14 years tied up in the plant. And he said, "Well, let's let the legal authorities hash it out because you're just gonna file charges anyway."

Q. Anything said about the handbook?

A. Yeah. That was another thing. He let me go back inside and make a phone call, and going back up the sidewalk I said, "You know, Hardie, doesn't it look strange that last Friday we had this handbook and you

made me sign it and now here Monday you find beer in my truck? I said, "I'm not that stupid. I cleaned my truck out. I wasn't gonna come to work with something illegal in my truck."

And he commented. He said, "Yeah, that does look funny."

Curvin had filed charges on one occasion. Those charges were with the National Labor Relations Board.

On cross Curvin was asked about cleaning his truck out and not wanting something illegal in his truck. Curvin testified that after receiving the new handbook on Friday, he removed a handgun that he had kept in the truck.

Curvin was notified of his discharge on September 12, 1989.

On cross-examination Curvin admitted that since his discharge, he has investigated into who may have set him up by placing beer in his truck. Curvin admitted that he has not been successful in that investigation.

Credibility Determinations

Raymond Curvin: Curvin appeared to testify frankly. On cross-examination he appeared to answer fully and completely even though in some instances the answers appeared to be harmful to his position. In that regard Curvin admitted under cross-examination that he had told some employees that he felt Respondent's management may have been responsible for the windows shot out of the breakroom. Additionally, Curvin admitted that, contrary to his comment to General Manager Harris on September 11, 1989, he does on rare occasions drink beer.

I was impressed with Curvin's demeanor during both direct and cross-examination. I credit his testimony.

Jeffrey Hulsey: Hulsey admitted on cross-examination that he was discharged by Respondent and that he was initially angry with Respondent because of his discharge. However, I saw nothing in Hulsey's demeanor or in his testimony which caused me to be concerned about his credibility. I was impressed with Hulsey's demeanor and I credit his testimony.

Don West Jr.: Don West is currently employed by Respondent. West testified after being called by the General Counsel. West appeared to testify candidly without evasion. I credit his testimony.

Hardie Harris: The testimony of Hardie Harris corroborated in practically all respects, the testimony of Raymond Curvin. However, in material respects as to the incident that led to Curvin's discharge, Harris' testimony differed from that of Curvin. Also, in material respects, Harris' testimony differed from that of Jeffrey Hulsey. Harris, unlike Hulsey, testified that in a management meeting he cautioned the supervisors to be fair toward the prounion employees.

I found Harris' story of the discovery of beer in Curvin's truck to be incredible especially in view of evidence showing that Curvin was treated differently than any of three other employees accused of alcohol related problems (e.g., even though two of those employees were known to have been drinking, only Curvin of the four, who was not even accused of drinking, was fired).

Harris' story was that he was called by someone that did not identify himself:

When I answered the phone, the individual said, "Don't you have a policy against drugs—I'm sorry—against alcohol being on your company property?"

I said, "Yes, we do."

He said, "Well, you need to check Ray Curvin's vehicle then because he's got booze in it."

Despite the contention by Harris that he received the above call, the beer, when found, was under the seat where it could not have been seen by a casual passer-by.

Harris' version of that incident, which led to Curvin's discharge, as well as his version of the supervisory meeting testified to by Hulsey, was not corroborated by other supervisors. Nevertheless, on those occasions, there were other supervisors present.

I am unable to credit Harris' testimony to the extent it conflicts with other credited evidence. My finding in that regard is based on my observation of Harris' demeanor and on the full record.

Findings

Discharge: The complaint alleges that Respondent discharged Raymond Curvin because of his union activities.

The testimony of Raymond Curvin, which I credited, shows that Respondent was fully aware of his union activities. General Manager Harris admitted the circumstances covered by Curvin's testimony as to the several incidents illustrating Respondent's knowledge of Curvin's union activities. Curvin's testimony, and other evidence mentioned below, shows that Respondent was strongly opposed to the Union.

Moreover, the credited evidence shows that Respondent set out to rid itself of the employees that advocated the Union. In that regard former Production Supervisor Jeffrey Hulsey testified about a management and staff meeting held by Respondent in April 1989. Hulsey testified that the meeting was called by General Manager Hardie Harris:

Well, we were having a class for supervisors in training by Pete Tosh. We were on break, and during that break Hardie [Harris] called us in and he just was gonna be brief about it.

He said the union elections was over with; he was glad of it; he knew we all were. It had been hectic on us all. And now that it was over with, we was gonna move on ahead.

And that the first thing on the agenda was to cull out some of these people in the plant that were trouble-makers.

He said, "You know who they are as well as I do. I don't have to mention any names. But we're gonna have to get rid of them."

He said, "We're gonna do it right." He said, "They're gonna walk the line. The minute they step off the line, they're gone."

As shown above, I credit Hulsey's version of the April 1989 supervisory meeting and I discredit Harris' version of that meeting.

It is apparent that Hardie Harris was referring to the employees that pushed the Union when he mentioned trouble-makers in his April 1989 statement to his management and supervisory employees.

The evidence reveals that one of those so-called trouble-makers was Raymond Curvin. From January 1988, Respondent was aware of Curvin's prounion position. Beginning in February 1989, Curvin had a series of run-ins with General Manager Harris regarding Curvin's activities in support of the Union.

Finally, as to motivation, the credited evidence shows that Respondent had Curvin's union activity in mind when it discharged him. The following exchange occurred between Curvin and General Manager Hardie Harris on September 11, 1989:

Q. Did you [Raymond Curvin] have any response to his statement that you were suspended?

A. Yeah. I told him I had 14 years tied up in the plant. And he said, "Well, let's let the legal authorities hash it out because you're just gonna file charges anyway."

Harris was referring to charges with the National Labor Relations Board.

The credited evidence shows that Respondent treated Curvin differently than it treated employees that were not known to be strong union pushers. In October 1989, employee Don West Jr. was called into General Manager Harris' office where Harris questioned West as to whether West had beer in his truck.

West testified that he favored the Union but, according to West, he did not engage in obvious prounion activities. There was no indication that Respondent was ever aware of how West felt about the Union.

Don West told Harris that there was trash in his truck and that the trash included an empty beer can, but West denied there was beer in his truck.

However, as in the case of Curvin, when Harris searched West's truck he found a pack of Busch beer.

West was not disciplined because of that incident.

During the incident where Harris found beer in Curvin's truck, Curvin was told that he was being suspended pending an investigation. West, on the other hand, was not suspended. West was given the six pack of beer, told to keep it out of sight, and was sent back to work.

Additionally, in two cases before the implementation of Respondent's new handbook on September 8, Respondent failed to discharge two employees "found in Bostrom Seating to have been drinking alcohol." Those two employees were not discharged according to General Manager Hardie Harris, because, while test showed alcohol in each employee's blood, each tested below 0.1 percent alcohol.

In the case of Curvin, there was never a question of Curvin's drinking. Curvin was never accused of having consumed beer.

Hardie Harris attempted to distinguish his treatment of Curvin from that of West, by showing there were grounds to believe that West had been set up.

In the case of West, Harris said he saw the beer in West's truck as he was walking in the parking lot. In Curvin's case, Harris allegedly received a call from an unidentified informer.

The record does not show that there was more reason to believe a frameup in West's case than in the case involving Curvin. As in the situation involving West, there were many apparent questions regarding the beer in Curvin's truck. For

example, how was the unidentified caller aware of beer in Curvin's truck. The employees who would have been in the parking lot at the time Curvin parked, were at work at the time of the mystery phone call. Moreover, only someone that saw the beer being placed in the truck or someone that had opened the door and looked under the seat, could have seen the beer which was admittedly out of sight, under the seats.

Additionally, in view of the fact that the beer was cold, and three cans were empty, an obvious question was, who had been drinking the beer since it was apparent that Curvin was not drinking.

Even Respondent, in its brief, and Hardie Harris during his conversation with Curvin after the beer was found, admitted the suspicious nature of the telephone call which allegedly put Harris on notice to beer in Curvin's truck.

It is not my responsibility to determine whether employees engage in conduct violative of Respondent's work rules. Nor do I intend to make light of those rules. Rules regarding alcohol and drugs are important and should be obeyed.

However, it is apparent that those rules were administered in one way as to Raymond Curvin while, as to employees not suspected of supporting the Union, a different approach was used. In the case of Don West, Hardie Harris suspected that West was not at fault and that the beer may have been placed in the truck by someone else.

There was no credible reason given why Curvin, who had worked for Respondent for 14 years, should have been entitled to less consideration when he denied that beer was placed in his truck by him, than Harris afforded to Don West. An objective analysis of both those situations, revealed a great many unanswered questions as to responsibility for the beer.

The evidence illustrates there was no reason why Curvin was treated with disparity other than because of his union activity. Under circumstances where the only reasonable explanation for disparity is protected activity, it is proper to assume that the disciplinary action was motivated by the employee's protected activities. I make that assumption in this case. *Chopp & Co.*, 295 NLRB 1058 (1989); *Abbey's Transportation Service*, 284 NLRB 698, 701 (1987); *NLRB v. Delta Gas*, 840 F.2d 309 (5th Cir. 1988).

The record illustrates that Curvin's protected union activities played a part in his selection for discharge.

Respondent failed to show that Curvin would have been discharged in the absence of his union activities. Other employees charged with offenses similar to the one against Curvin, were not discharged.

I find that Raymond Curvin was first suspended then discharged because of his union activities. By that action Respondent engaged in activity violative of Section 8(a)(1) and (3) of the Act.

Restricted Movements

The complaint alleges that Respondent restricted Raymond Curvin's movements within the plant because of his union activities.

The record evidence shows that Raymond Curvin was told that he had spent too much time in the bathroom on August 7, 1989. Curvin was called into Hardie Harris' office where he was told to use his judgment as to how long to stay in the bathroom. Curvin told Harris that he did not feel he had

been in the bathroom too long and he asked Harris what was excessive. Harris told Curvin:

Look, just use your judgment. . . . The best thing to do is just tell somebody when you go to the bathroom.

I do not find that the above evidence supports the General Counsel's allegation in this instance. General Manager Harris was responding to Curvin's question and his response was in the nature of if you want to be safe just tell somebody when you go to the bathroom. I see nothing illegal in that action.

CONCLUSIONS OF LAW

1. Bostrom Seating Company, Inc. is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. United Steelworkers of America, AFL-CIO, CLC is a labor organization within the meaning of Section 2(5) of the Act.
3. Respondent, by discharging and refusing to reinstate Raymond Curvin, violated Section 8(a)(1) of the Act.
4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has engaged in unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act. As I have found that Respondent unlawfully discharged Raymond Curvin, I shall recommend that Respondent be ordered to offer Curvin immediate and full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or other rights and privileges.

I shall further recommend that Respondent be ordered to make Curvin whole for any loss of earnings he suffered as a result of the discrimination against him. Backpay shall be computed in the manner described in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest, as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).¹

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended²

¹ Under *New Horizons*, interest is computed at the "short-term Federal rate" for the underpayment of taxes as set out in the 1986 amendment to 26 U.S.C. § 6621. Interest accrued prior to January 1, 1987 (the effective date of the 1986 amendment to 26 U.S.C. § 6621) shall be computed in accordance with *Florida Steel Corp.*, 231 NLRB 651 (1977).

² If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as

ORDER

The Respondent, Bostrom Seating Company, Inc., Piedmont, Alabama, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Discharging, refusing to reinstate, and otherwise discriminating against employees because of their union or other protected concerted activities.

(b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer its employee Raymond Curvin immediate and full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent job without prejudice to his seniority or other rights or privileges previously enjoyed, and make Curvin whole for any loss of earnings, plus interest, suffered because of its illegal action.

(b) Remove from its files any reference to the termination of Curvin and notify Curvin in writing that this has been done and that evidence of his unlawful suspension or termination will not be used against him in any way.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records, and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in Piedmont, Alabama, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."